

# GOVERNING STATUTES

## DIVISION 1.

### Chapter 7.4. Oil Spill Response and Contingency Planning

#### Article 2. Duties of the Administrator

#### Article 3. Marine Safety

##### § 8670.23. Harbor safety committees; members; qualifications; chairperson; expenses

(a) The administrator shall establish Harbor Safety Committees for \*\*\*harbors and adjacent regions of San Diego; Los Angeles/Long Beach; Port Hueneme; San Francisco<sup>\*\*\*</sup>; and Humboldt Bay.

(b) The administrator shall determine the geographic area for each harbor safety committee.

(c) The administrator shall appoint to each harbor safety committee, for a term of three years, all of the following members, and their alternates:

(1) A designee of \*\*\*a port authority within the harbor<sup>\*\*\*</sup>.

(2) A representative of tank ship operators<sup>\*\*\*</sup>.

(3) A representative of the pilot organizations within the harbor.

(4) A representative of dry cargo vessel operators<sup>\*\*\*</sup>.

(5) A representative of commercial fishing <sup>\*\*\*</sup>operators.

(6) A representative of a recognized nonprofit environmental organization that has as a purpose the protection of marine resources.

(7) A designee of the California Coastal Commission, except that for the Harbor Safety Committee for San Francisco <sup>\*\*\*</sup>Bay, the administrator shall appoint a designee of the San Francisco Bay Conservation and Development Commission.

(8) A representative from a recognized labor organization involved with operations of vessels.

(9) A designee of the Captain of the Port from the United States Coast Guard, the United States Army Corps of Engineers, the National Oceanographic and Atmospheric Administration, and the United States Navy to the extent that each consents to participate on the committee.

(10) A representative of tug or tank barge operators, who is not also engaged in the business of operating either tank ships or dry cargo vessels<sup>\*\*\*</sup>.

(11) A representative of pleasure boat operators.

(12) A harbor safety committee may petition the administrator with a request for a new or additional \*\*\*membership position needed to conduct the harbor safety committee business and \*\*\*that reflects the makeup of the local maritime community. The approval of this petition shall be at the sole discretion of the administrator.

(13) A harbor safety committee may petition the administrator for the elimination of a new or additional membership position requested and approved pursuant to paragraph (12). The approval of this petition shall be at the sole discretion of the administrator.

(d) The members appointed from the categories listed in paragraphs <sup>\*\*\*</sup>(2), (3), (4), <sup>\*\*\*</sup>and (10) of subdivision (c) shall have navigational expertise. An individual is considered to have navigational expertise if the individual meets any of the following conditions:

(1) Has held or is presently holding a Coast Guard Merchant Marine Deck Officer's license.

(2) Has held or is presently holding a position on a commercial vessel that includes navigational responsibilities.

(3) Has held or is presently holding a shoreside position with direct operational

control of vessels.

(4) Has held or is currently holding a position having responsibilities for permitting or approving the docking of vessels in and around harbor facilities relating to the safe navigation of vessels.

(e) The administrator shall appoint a chairperson and vice chairperson for each harbor safety committee from the membership specified in subdivision \* \* \* (c). The administrator may withdraw such appointments at his or her sole discretion.

(f) Upon request of the harbor safety committee, the administrator may remove a member.

(g) Each member of a harbor safety committee may be reimbursed for actual and necessary expenses incurred in the performance of committee duties.

(Added by Stats.1990, c. 1248 (S.B.2040), § 17, eff. Sept. 24, 1990. Amended by Stats.1994, c. 1298 (A.B.3425), § 3; Stats.1995, c. 337 (A.B.1742), § 5; Stats.2001, c. 748 (A.B.715), § 13; Stats.2004, c. 796 (S.B.1742), § 18.)

**§ 8670.23.1. Harbor safety committee; harbor safety plan; regulations; implementation; revision**

(a) Each harbor safety committee established pursuant to Section 8670.23 shall be responsible for planning for the safe navigation and operation of tank ships, tank barges, and other vessels within each harbor. Each committee shall prepare a harbor safety plan, encompassing all vessel traffic within the harbor.

(b) The administrator shall adopt regulations for harbor safety committee membership positions required in addition to those specified in Section 8670.23 and for harbor safety plans in consultation with the committees of those harbors listed in Section 8670.23, and other affected parties. The regulations shall require that the plan contain a discussion of the competitive aspects of the recommendations of the harbor safety committee.

\* \* \*

(c) The regulations shall ensure that each harbor safety plan includes all of the following elements:

(1) A recommendation determining when tank vessels are required to be accompanied by a tugboat or tugboats, of sufficient size, horsepower, and pull capability while entering, leaving, or navigating in the harbor. The Harbor Safety Committee for San Francisco \* \* \* shall give the highest priority to the \* \* \* continual review and evaluation of tugboat escort \* \* \* regulations. The administrator shall be guided by the recommendations of the harbor safety committee when adopting regulations pursuant to Section 8670.17.2.

(2) A review and evaluation of the adequacy of, and any changes needed in, all of the following:

- (A) Anchorage designations and sounding checks.
- (B) Communications systems.
- (C) Small vessel congestion in shipping channels.
- (D) Placement and effectiveness of navigational aids, channel design plans, and the traffic and routings from port construction and dredging projects.
- (3) Procedures for routing vessels during emergencies that impact navigation.
- (4) Bridge management requirements.
- (5) Suggested mechanisms to ensure that the provisions of the plan are fully and regularly enforced.

\* \* \*

(d) Each harbor safety plan shall be submitted to the administrator\* \* \*. The administrator shall review \* \* \* and provide comment on the plan for consistency with the regulations\* \* \*.

\* \* \* (e) The administrator shall, in consultation with the harbor safety committees

listed in Section 8670.23, implement the plans. The administrator shall adopt regulations necessary to implement the plans. When federal authority or action is required to implement a plan, the administrator shall petition the appropriate federal agency or the United States Congress, as may be necessary.

(f) On or before July 1 of each year, each harbor safety committee shall revise its respective harbor safety plan and report its findings and recommendations to the administrator\* \* \*.

(g) The administrator may direct a harbor safety committee to address any issue affecting maritime safety or security, as appropriate, and to report findings and recommendations on those issues. The administrator shall forward those findings and recommendations to the appropriate authority.

(Added by Stats.1995, c. 337 (A.B.1742), § 6. Amended by Stats.2001, c. 748 (A.B.715), § 14; Stats.2004, c. 796 (S.B.1742), § 19.)

**§ 8670.23.2. Harbor Safety Committee members; immunity from liability**

(a) The Legislature hereby finds and declares that because the administrator must rely on the expertise provided by volunteer members of the harbor safety committees and be guided by their recommendations in making decisions that relate to the public safety, members of the harbor safety committees should be entitled to the same immunity from liability provided other public employees.

(b) Members of the harbor safety committees appointed pursuant to Section 8670.23, while performing duties required by this article or by the administrator, shall be entitled to the same rights and immunities granted public employees by Article 3 (commencing with Section 820) of Chapter 1 of Part 2 of Division 3.6 of Title 1. Those rights and immunities are deemed to have attached, and shall attach, as of the date of appointment of the member to the harbor safety committee.

(Added by Stats.1995, c. 337 (A.B.1742), § 7.)